

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 4557 of 2021

Biranchi Narayan Dalei

....

Petitioner

Mr. L.N. Rayatsingh, Advocate

-versus-

State of Odisha

....

Opposite Party

Mr. Karunakar Gaya, ASC

CORAM: JUSTICE V. NARASINGH

ORDER
19.04.2022

Order No.

04.

1. This matter is taken up through hybrid mode.
2. Heard learned counsel for the petitioner and learned counsel for the State.
3. The petitioner is an accused in Special G.R. Case No.80 of 2020, on the files of learned Additional Sessions-cum-Special Judge, Nimapara, arising out of Ramachandi P.S. Case No.70 of 2020, under Sections 21(C)/29 of the NDPS Act and is in custody since 25.11.2020.
4. Being aggrieved by the rejection of his application for bail U/s.439 Cr.P.C. by the learned Additional Sessions-cum-Special Judge, Nimapara, by order dated 26.04.2021 in the aforementioned case, the present BLAPL has been filed.
5. Learned counsel for the petitioner submits that though the seizure list indicate that it is a joint seizure of the to the tune of 271 grams and 320 milligrams of brown sugar but the seizure witnesses

namely Niranjana, Rama Chandra and Naresh Pradhan have categorically stated that the seizure of such contraband is from one Sukanta Sethi, who has been arrayed as accused No.6.

6. Learned counsel for the petitioner also places reliance on the order of this Court dated 14.03.2022 passed in BLAPL No.9167 of 2020 in the case of co-accused Suryakant Mohanty @ Sangram and another and seeks intervention, inter alia, on the ground of parity.

7. It is further submitted by the learned counsel for the petitioner since final form has been submitted on 21.05.2021 further detention of the petitioner in custody is not warranted.

8. Learned counsel for the States submits that at this stage it is not permissible to sift the materials and come to a finding that there has been no seizure from the petitioner and as such the bail application is to be rejected.

9. Taking into account the statement of the seizure witnesses as above and the period of detention and that the final form has been submitted on 21.05.2021 this Court is of the considered opinion that conscious possession of the contraband cannot be attributed to the petitioners.

10. Hence on a conceptus of materials on record, it is directed that the petitioner shall be released on bail on such terms shall be fixed by the learned court in seisin of the matter.

11. The present BLAPL is disposed of accordingly.

12. Urgent certified copy of this order be granted as per rule.

(V. NARASINGH)

Judge

Santoshi